

# CNA COVERAGE LITIGATION GROUP

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January 14, 2022

Justice Katherine Polk Failla  
United States District Court for the Southern District of New York  
Thurgood Marshall  
United States Courthouse  
40 Foley Courthouse  
New York, NY 10007

**MEMO ENDORSED**

Re: **Arnov Sandwich, Inc., et al. V. CNA Financial Corp., et al.**  
Docket No. 1:21-cv-08690-KPF  
Our File No. 12156003553

Dear Justice Failla:

This letter is written on behalf of Defendants to very briefly respond to Plaintiff's January 13 letter, and to respectfully request that discovery as to CNA Financial and Continental be stayed at least until such time as the Defendants' requested pre-motion conference (requested to be adjourned due to my absence from the state) is held. Alternatively, the Court is respectfully requested, if so inclined, to permit the proposed moving Defendants to file their motions to dismiss next week, and accordingly to stay discovery as CNA Financial and Continental until the requested motions to dismiss are decided.

Plaintiffs' letter states that they will consider voluntarily withdrawing their claims against CNA Financial and Continental at the "conclusion" of discovery. However, as per Defendant's first letter to the Court, we do not believe Plaintiffs have jurisdiction over CNA Financial, or state a claim as to CNA Financial or Continental, and accordingly, ask that the Court grant leave for those motions to go forward - which we are prepared to file next week.

Defendant Transportation is certainly willing, if permitted by the Court, to proceed with discovery between Transportation and Plaintiffs while the motions to dismiss are pending.

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Defendants respectfully wait for the Court to advise the parties how it wants to proceed.

Respectfully submitted,



Marian S. Hertz

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Lane Blessum, *via email* ([lblessum@kktlawfirm.com](mailto:lblessum@kktlawfirm.com))

The Court is in receipt of Defendants' pre-motion letter, dated January 13, 2022 (Dkt. #17); Plaintiff's letter in opposition, dated January 13, 2022 (Dkt. #18); and Defendants' reply, dated January 14, 2022 (Dkt. #19).

The initial pretrial conference scheduled for January 27, 2022, is hereby ADJOURNED to February 11, 2022, at 3:30 p.m., and is hereby converted to a pre-motion conference. Discovery shall be stayed as to Defendants CNA Financial and Continental pending the conference.

The Clerk of Court is directed to terminate the pending motions at docket numbers 17 and 19.

Dated: January 14, 2022  
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE